

Application No.: 09/963,513

Docket No.: 22135-00013-US

REMARKS**INTRODUCTION**

Receipt of the Office Action mailed March 4, 2004 is acknowledged. The present amendment proposes a clarifying amendment to claim 1 to point out that the concertina is turned inside out such that the closure is on the outside of the casing when the casing is filled. Support for this proposed amendment can be found throughout the specification and claims as originally filed, for example, on page 5, lines 22-25, figure 1 and in the examples as well. No new matter would be added. Moreover, the proposed amendment does not raise any new issues as the language now recited makes explicit what was implicit previously. Indeed, the Examiner had specifically indicated that certain features (turning the casing inside out) were not recited. In response to the Examiner's notation of this point, this feature is now positively recited in claim 1.

Entry of the instant amendment is respectfully urged pursuant to 37 CFR 1.116 as the instant amendment is believed to place this application in condition for allowance. Claims 1-19 remain pending.

THE OFFICE ACTION

1. Rejection of claims 1-4, 10-14 and 16-19 under 35 U.S.C. §103(a) as allegedly being unpatentable over Kubo et al in view of Stall et al

It is respectfully submitted that the Kubo and Stall fail to teach or suggest the claims as instantly recited. First, Kubo is silent about casings having a coating or impregnation on the inside or on the outside. Moreover, Kubo fails to teach or suggest a casing in which one end of the casing is tied off and turned inward into the inner cavity of the casing and provided with a closure, such that when the casing is being filled, the casing is turned inside out so that the closure is on the outside. All these features are recited in claim 1 and are not taught or suggested by Kubo.

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Stall fails to provide for the deficiencies of Kubo. Namely, Stall discloses a shirred stick made from a non-reinforced cellulose casing impregnated with liquid smoke. Stall fails to teach or suggest an end closure. Indeed, Stall's casings are for small caliber sausages (see col. 1, l. 30) that generally cannot be turned inside out. As such, one of skill in the art would not have found any motivation to apply the liquid smoke of Stall into a casing of Kubo. Furthermore, even if there would have been motivation to combine these references, the invention as recited in claim 1 would not have been obtained. Namely, neither reference taken alone or in combination teaches or suggests a structure that permits the casing to be turned inside out during filling such that a closure is on the outside thereof.

The instant rejection is therefore believed to be improper and should be withdrawn.

2. Rejection of claims 5-6 and 15 under 35 U.S.C. § 103(a) as allegedly unpatentable over Kubo et al., in view of Stall et al. and further in view of EP 0340776

EP 0340776 discloses a food casing having color indicia on the inner surface, which are completely transferable from the casing to the outer surface of the food product during processing. The transferable indicia may be arranged on an under layer which may be water-soluble (such as a caramel layer) or water-insoluble (such as a shellac layer). There is no teaching that the color indicia material could be admixed with a caramel or the shellac. Thus, EP '766 taken with Kubo or Stall fail to teach or suggest the invention recited in claims 5, 6 and 15.

Further, this rejection is improper for the same reasons as advanced above. Namely, EP 776 fails to teach or suggest a casing that can be turned inside out during filling with a closure as claimed, and hence, does not fill the deficiencies identified above with respect to Kubo and Stall as to claim 1. Since claims 5, 6 and 15 depend on claim 1, this rejection is improper for at least this further reason as well.

The Examiner is therefore respectfully requested to reconsider and withdraw this rejection.

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3. Rejection of claim 7 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kubo et al. in view of Stall et al. and further in view of JP 51-079748 A

The Japanese reference discloses a fiber-reinforced food casing. It is prepared by laminating a porous base material sheet with a water-soluble film obtained from polysaccharides, proteins or synthetic resins. Polyvinylpyrrolidone (PVP) is disclosed as an example of a synthetic resin. The laminate is said to have improved smoking properties, which apparently means that smoke components can pass through the casing.

The PTO has taken the position that it would have been obvious to one of ordinary skill in the art to employ the polyvinylpyrrolidone as taught in the Japanese reference in the invention of Kubo. Applicants respectfully disagree. First of all, since claim 7 depends on claim 1, and the Japanese reference does not teach or suggest a casing that can be turned inside out for filling, this rejection is improper. Second, Kubo does not contemplate laminates or any materials comprising a porous or fibrous base material and a film laminated thereon. On the other hand, the Japanese reference does not employ PVP in a coating or impregnation which is applied on an already existing food casing. Thus, even though Stall teaches liquid smoke and the Japanese reference teaches PVP, but there was no motivation to combine the PVP and the liquid smoke to form a coating on a tubular casing. And even if, this would not have resulted in a casing as presently claimed. The suggested combination of references hence cannot render obvious the present invention and withdrawal of the rejection and favorable reconsideration are earnestly solicited.

4. Rejection of claim 8 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kubo et al in view of Stall et al and further in view of Nausedas

Nausedas is referred to in the Office Action with respect to the fill ring. The Examiner pointed to Fig. 14, numeral designation "63." However, as mentioned in Applicants' prior response, this numeral 63 is not a fill ring, but rather an end closure of sausage. This is just the opposite of a fill ring. A fill ring expands the casing to a desired diameter when it is drawn over

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the ring during the filling process. Thus, claim 8 is separately patentable for at least this further reason. The Examiner is respectfully requested to reconsider and withdraw this rejection.

5. Rejection of claim 9 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kubo et al and Stall and further in view of Crevasse

The PTO contends that Crevasse discloses a shirred casing stick surrounded by an outer package (Fig. 5, #44). While Crevasse teaches a sleeve #42 (col. 4, l. 21-35), surrounding a shirred casing stick made e.g. of ethylene vinylacetate copolymer (EVA), this does not provide motivation to enclose a casing in outer packaging as instantly claimed in claim 9. Thus, claim 9 is patentable for this additional reason. The Examiner is respectfully urged to reconsider and withdraw the outstanding rejection.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant hereby authorizes the Commissioner to please charge our Deposit Account No. 22-0185, under Order No. 22135-00013-US in the amount of \$110.00 for a One Month Extension of Time, from which the undersigned is authorized to draw.

Dated: July 1, 2004

Respectfully submitted,

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